



NEWS

**Federal Communications Commission
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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

Report No. CS 98-5

CABLE SERVICES ACTION

March 27, 1998

COMMISSION REAFFIRMS DELETION OF BROADCAST NETWORK/CABLE CROSS OWNERSHIP RULES

The Commission has denied a petition for reconsideration concerning its rules on television broadcast station network and cable television system cross ownership. A petition had been filed by the Network Affiliated Stations Alliance ("NASA").

The Telecommunications Act of 1996 ("1996 Act") directed the Commission to revise its rules (47 C.F.R. 76.501) to permit a person or entity to own or control both a major television broadcast network and cable television systems. The Commission was, however, authorized to revise its rules if necessary to ensure carriage, channel positioning, and nondiscriminatory treatment of nonaffiliated broadcast station by such commonly owned cable systems.

On March 15, 1996, the Commission deleted the broadcast network/cable television ownership rule to conform with the 1996 Act. At the same time it indicated that it would monitor the response to the rule change to determine whether it was necessary to establish any additional regulatory safeguards. In response to this decision, NASA, which represents the owners of network affiliated television broadcast stations, filed a petition for reconsideration contending that the Commission was obligated under the Administrative Procedure Act ("APA") to provide notice and an opportunity to participate in the rulemaking proceeding.

In responding to this reconsideration petition, the Commission determined that because the rule changes made pursuant to the 1996 Act merely conformed the rules to the statute, the APA did not apply. The Commission, thus, had no discretion to forgo or to postpone this legislative directive. The Commission recognized that Congress (in Section 202(f)(2) of the 1996 Act), directed the Commission to revise its rules, if necessary, to protect against possible anticompetitive behavior. Congress, in passing the 1996 Act, did not conclude that safeguards were immediately necessary and, as the Commission merely conforms its rules to the new statute, a similar conclusion is reached and the Commission elects to monitor the situation rather than to launch a full proceeding on this issue at this time. Combinations between major networks and cable operators have not yet been formed, nor does the record reflect specific examples of potential problems. Accordingly, safeguards are not necessary at this time.

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Action by the Commission March 25, 1998 by Order on Reconsideration (FCC 98-47).
Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani.

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